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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,843	09/27/2006	Tadahiro Ohmi	010986.56896US	5817
23911 7590 04/14/2008 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
WITHERS, GRANT S				
ART UNIT		PAPER NUMBER		
2812				
MAIL DATE		DELIVERY MODE		
04/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,843

Applicant(s)

OHMI ET AL.

Examiner

Grant S. Withers

Art Unit

2812

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 2-10 and 12-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S5108)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 10/03/2005

DETAILED ACTION

This Office Action is in response to the Amendment filed on 01/14/2008.

Currently, claims 1-24 are pending with claims 21-24 being newly added.

Interview

The examiner acknowledges the brief interview about formalities which are addressed in this response.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 10/03/2005 was considered in full. A copy is attached.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 11, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Koyama et al. ("Koyama" Koyama, Masato "Effects of Nitrogen in HfSiON Gate Dielectric on the Electrical and Thermal Characteristics" 2002 IEEE IEDM pp 849-852).

As to claims 1, 11, 23, and 24 Koyama shows (See Fig. 13) forming a HfSiON layer high-k gate dielectric directly on and between a Si substrate and a gate (poly-Si; Fig. 13) by first forming HfSiON (co-sputter; page 849, [0004]) and then nitriding (anneal in N₂; page 850, [0002]) the HfSiON.

Claims 1, 11, 23 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al. ("Lee" US 2006/0194451, entitled to date 07/30/2003).

As to claims 1, 11, 23, and 24 Lee shows (See Fig. 3C) forming a MSi_kT_{O_yT}N_zT layer high-k gate dielectric directly on and between a Si substrate and a gate (poly 3; Fig. 4; page 3, [0039]) by first forming MSi_kT_{O_yT} and then plasma nitriding (plasma N₂; Fig. 3C) the MSi_kT_{O_yT}.

Allowable Subject Matter

Claims 2-10 and 12-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Allegedly Werkhoven et al. (PCT WO 01/66832 filed 03/02/2001) shows the matter of claims 1, 11, 23 and 24 according to the international preliminary examination report for PCT/EP 03/50352 where it is referred to as D2, but how this is shown is not readily apparent to the examiner and has not been used.

Response to Arguments

Applicant's arguments, see Arguments, filed 01/14/2008, with respect to the objections to the specification have been fully considered and are persuasive. The objection to the specification has been withdrawn.

Applicant's arguments, see Arguments, filed 01/14/2008, with respect to the rejection(s) of claim(s) 1-20 under U.S.C 102 and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the references shown above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Grant S. Withers whose telephone number is (571)270-1570. The examiner can normally be reached on Mon-Thurs 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, (Acting SPE) Walter Lindsay Jr. can be reached on (571)-272-1674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2812

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GSW

04/09/2008

/Walter L. Lindsay, Jr./

Primary Examiner, Art Unit 2812